

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JEREMY SCOTT,

Plaintiff,

v.

DEPUTY R. RODRIGUEZ,

Defendant.

No. 1:24-cv-00284-JLT-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS THIS
ACTION FOR FAILURE TO STATE A
COGNIZABLE CLAIM FOR RELIEF

(Doc. 11)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 16, 2024, the assigned magistrate judge recommended that Plaintiff's amended complaint be dismissed for failure to state a claim upon which relief may be granted without further leave to amend. (Doc. 11.) Plaintiff filed objections on May 31, 2024. (Doc. 13.)

According to 28 U.S.C. § 636(b)(1), the Court performed a *de novo* review of the action. Having carefully reviewed the matter, including Plaintiff's objections, the Court concludes the Findings and Recommendations are supported by the record and by proper analysis. In his objections, Plaintiff asserts that the conduct exhibited by the defendant is a common practice of officers at the jail where he is housed. However, as noted in the findings and recommendations,

1 this type of verbal harassment, while troubling, does not rise to the level of a constitutional
2 violation. Thus, the Court concludes that the magistrate judge correctly determined that the
3 amended complaint failed to set forth facts to support a constitutional claim against Deputy
4 Rodriguez. Therefore, Plaintiff's objection that he should be permitted to demonstrate that
5 Rodriguez's conduct is part of a pattern and practice at the Kings County Jail is not persuasive.
6 Thus, the Court **ORDERS**:

- 7 1. The Findings and Recommendations issued on May 16, 2024 (Doc. 11) are
8 **ADOPTED** in full.
9 2. The instant action is **DISMISSED** for failure to state a claim.
10 3. The Clerk of Court is directed to close this case.

11 IT IS SO ORDERED.

12 Dated: June 6, 2024


UNITED STATES DISTRICT JUDGE

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